

REMARKS

Claims 1, 3-10, and 12-20, and 24-27 are currently pending in the application. By this amendment, claims 1, 8, 20, and 25 are amended for the Examiner's consideration. Moreover, claim 22 is canceled without prejudice or disclaimer. The above amendments do not add new matter to the application and are fully supported by the original disclosure. For example, support for the amendments is provided in the claims as originally filed and at Figures 1 and 2. Particularly, Figure 1 of the instant application shows, the recess formed in the tongue adjacent the bevel is defined by a flat surface and a curved surface. Moreover, Figure 1 shows, in an assembled state, a portion (e.g., corner) of the top lip of a first building board is located within the recess of a second building board, with the bevel being conterminous with the flat surface of the recess and the convex underside of the tongue. Moreover, Figure 1 shows that the recess comprises a surface that is conterminous with the bevel and, in an assembled state, is substantially horizontal. Reconsideration of the rejected claims in view of the above amendments and the following remarks is respectfully requested.

Summary of Personal Interview

Applicants thank the Examiner for the courtesy extended during a personal interview between Examiners Cajilig and Glessner and Applicants' representatives on April 29, 2008. The substance of the interview as summarized in the Examiner's Interview Summary mailed on May 7, 2008 is correct. More specifically, in the Interview, proposed amendments to the claims were discussed and agreement was reached with respect to claim language that distinguishes the invention from the applied art. Applicants believe that the instant amendments to the claims

accurately reflect the agreed upon language, such that the instant amendment places the application in condition for allowance.

35 U.S.C. §102 Rejection

Claims 8 and 25 are rejected under 35 U.S.C. §102(b) as being anticipated by Eisermann (U.S. Pat. No. 6,804,926). This rejection is respectfully traversed.

While Applicants do not agree that Eisermann anticipates claims 8 and 25, nevertheless, in order to expedite prosecution, independent claim 8 has been amended as discussed in the personal interview of April 29, 2008 (noted *supra*). As discussed in the interview with Examiners Cajilig and Glessner, these amendments distinguish Applicants' invention from the applied art by reciting combinations of structural features that are not disclosed, suggested, or implied by the applied art. More specifically, Applicants submit that Eisermann fails to disclose the combination of features recited in independent claim 8 including, *inter alia: the recess being defined by a flat surface and a curved surface formed in the tongue, the bevel is flat or planar, the bevel being conterminous with the flat surface of the recess and the convex underside of the tongue, and, in an assembled state, a portion of the top lip of a first said building board is located within the recess of a second said building board.* Moreover, Eisermann does not recite the building board is made of oriented strand board (OSB). Therefore, Eisermann does not disclose all of the features of independent claim 8. Claim 25 depends from independent claim 8 and is distinguishable at least for the same reasons as the independent claim.

Accordingly, Applicants respectfully request that the §102 rejections of claims 8 and 25 be withdrawn.

35 U.S.C. §103 Rejection

Claims 1 and 24 are rejected under 35 U.S.C. §103(a) for being unpatentable over Pervan (U.S. Pat. No. 7,127,860) in view of Eisermann. Claims 1, 8, 16, and 22 are rejected under 35 U.S.C. §103(a) for being unpatentable over Palsson (U.S. Pub. No. 2003/0079820) in view of Olofsson et al. (U.S. Pat. No. 6,682,254) and Schneider (U.S. Pat. No. 6,385,936). Claims 3, 6, 9, 10 and 19 are rejected under 35 U.S.C. §103(a) for being unpatentable over Palsson in view of Olofsson et al. and Schneider, and further in view of Thiers (U.S. Pub. No. 2002/0056245). Claims 4, 5, 15, and 17 are rejected under 35 U.S.C. §103(a) for being unpatentable over Palsson in view of Olofsson et al. and Schneider, and further in view of Kornicer et al. (U.S. Pub. No. 2003/0035921). Claims 7 and 12-14 are rejected under 35 U.S.C. §103(a) for being unpatentable over Palsson in view of Olofsson et al. and Schneider, and further in view of Hall (U.S. Pat. No. 3,474,425). Claim 18 is rejected under 35 U.S.C. §103(a) for being unpatentable over Palsson in view of Olofsson et al. and Schneider, and further in view of Smid (U.S. Pat. No. 6,012,255). Claims 20 and 26 are rejected under 35 U.S.C. §103(a) for being unpatentable over Palsson in view of Hall. Claims 20 and 27 are rejected under 35 U.S.C. §103(a) for being unpatentable over Pervan in view of Eisermann and Hall. These rejections are respectfully traversed.

While Applicants do not agree that any proper combination of the applied art renders the claimed invention obvious, nevertheless, in order to expedite prosecution, independent claims 1, 8, and 20 have been amended as discussed in the personal interview of April 29, 2008 (noted *supra*). As discussed in the interview with Examiners Cajilig and Glessner, these amendments distinguish Applicants' invention from the applied art by reciting combinations of structural features that are not disclosed, suggested, or implied by the applied art. More specifically, the applied art fails to disclose, suggest, or imply the combinations of features recited in the

independent claims including, inter alia: *the bevel transitions into a flat surface of the recess, the bevel is flat or planar and is conterminous with the convex underside of the tongue, the recess is defined by the flat surface and a curved surface formed in the tongue, and, in an assembled state, an edge of the top lip of a first said building board bounds the recess of a second said building board forming a closed space (claim 1); the recess being defined by a flat surface and a curved surface formed in the tongue, the bevel is flat or planar, the bevel being conterminous with the flat surface of the recess and the convex underside of the tongue, and, in an assembled state, a portion of the top lip of a first said building board is located within the recess of a second said building board (claim 8); and, the tongue of the first longitudinal edge comprises a flat or planar bevel and a recess formed adjacent to the bevel, the recess being defined by a flat surface and a curved surface formed at a transition between the tongue and a vertical wall extending from the tongue, the flat or planar bevel being conterminous with the flat surface of the recess and the convex underside of the tongue, and in an assembled state, a corner of the top lip of a first said building board is located within the recess of a second said building board (claim 20).*

Moreover, independent claims 1, 8, and 20 recite the building board is *made of oriented strand board (OSB)*. As described in Applicants' specification, the OSB building boards of the present invention are laid on beams to create a subfloor, after which parquet or laminate panels (e.g., flooring panels) are laid on the resulting subfloor. As is understood in the art, OSB boards are stronger than flooring panels made from materials such as MDF and HDF. Also, MDF or HDF boards would not be used as structural boards as they would tend to fail because they are not as structurally sound as OSB boards. The increased strength of OSB boards comes at the price of less tolerance for flexure. Indeed, Applicants have empirically found that it is not prudent to construct interlocking OSB boards that snap-fit together as this would incur a high

rate of breakage of the OSB boards. For this reason, flooring panels that snap together (e.g., require some flexure of the panel during installation) are generally made of the more flexible MDF or HDF. In contrast to snap-fit panels, the building boards of the present invention are made of OSB, and are profiled in a manner that allows rotational engagement of the tongue 7 of a first board into the groove 4 of a second board without a snapping action. More specifically, the planar bevel and recess 11 allow the tongue 7 of Applicants' OSB board to slide completely into the groove 4 of another board prior to rotating downward, thereby ensuring that the underside of the tongue 7 will completely fit within the groove 4 of the bottom lip 6 without flexing of the boards. This avoids breakage of the bottom lip 6 of the OSB boards, especially at the concave recess portion.

Accordingly, Applicants submit that it would not have been obvious to one of ordinary skill in the art to modify Palsson or Pervan (e.g., the base references for all of the §103 rejections) to be made of OSB, because both Palsson and Pervan disclose locking systems that require snapping the panels together. If the Palsson or Pervan panel were made of OSB, they would incur a high rate of breakage of the panels during the snapping operation during installation. Therefore, the skilled artisan would not be motivated to modify either Palsson or Pervan by making the panels with OSB.

Moreover, Applicants submit it is understood in the art that MDF/HDF panels generally have a relatively flat and smooth outer surface, which facilitates application of a decorative layer (e.g., a simulation wood grain). This is because the decorative layer is very expensive to manufacture and is applied in a very thin sheet. On the other hand, OSB boards generally have a relatively rough outer surface, such that the thin decoration layers applied to an OSB board typically are not as aesthetically pleasing as decorations applied to an HDF/MDF panel. Because

of the difference in surface roughness, Applicants submit that one of ordinary skill would not be motivated to modify a flooring panel made of MDF/HDF by replacing the MDF/HDF with OSB. Particularly, Applicants submit that one of ordinary skill in the art would not replace the MDF/HDF in a flooring panel with OSB because such a modification would detract from the aesthetic value of any decoration provided on the flooring panel. Because Palsson or Pervan (e.g., the base references for all of the §103 rejections) both disclose a decoration layer, Applicants submit that a skilled artisan would not be motivated to modify either Palsson or Pervan by making the panels with OSB.

For all of the above reasons, Applicants submit that no proper combination of the applied references discloses or suggests all of the features of independent claims 1, 8, and 20. Claims 3-7, 9, 10, 12-19, 22, 24, 26, and 26 depend from independent claims 1, 8, and 20, respectively, and are distinguishable at least for the same reasons as the independent claims.

Accordingly, Applicants respectfully request that the §103 rejections of claims 1, 3-7, 8, 9, 10, 12-19, 20, 22, 24, 26, and 26 be withdrawn.

Other Matters

Claim 25 is amended, for clarification reasons not related to patentability, to ensure antecedent basis for recited features.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants submit that all of the claims are patentably distinct from the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue. The Examiner is invited to contact the undersigned at the telephone number listed below, if needed. Applicants hereby make a written conditional petition for extension of time, if required. Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 19-0089.

Respectfully submitted,
Thomas GRAFENAUER

A handwritten signature in black ink, appearing to read 'Andrew M. Calderon', written over a horizontal line.

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